

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

: _____ :

UNITED STATES OF AMERICA, :

Plaintiff, :

vs. : NO: 12-CV-2039 GAG

COMMONWEALTH OF PUERTO RICO, :

PUERTO RICO POLICE DEPARTMENT, :

Defendants. :

: _____ :

TRANSCRIPT OF SETTLEMENT/STATUS CONFERENCE
HELD BEFORE THE HONORABLE GUSTAVO A. GELPÍ
JOSÉ V. TOLEDO U.S. COURTHOUSE, OLD SAN JUAN, PUERTO RICO
THURSDAY, APRIL 11, 2013, BEGINNING AT 2:30 P.M.

: _____ :

A P P E A R A N C E S:

US DEPARTMENT OF JUSTICE
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Amicus

A P P E A R A N C E S C O N T I N U E D:

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ALSO PRESENT:

Sulma López-Defilló, Courtroom Deputy Clerk
Eva Prado, ACLU

1 THE BAILIFF: All rise.

2 (The Court enters the room.)

3 THE COURT: Please be seated.

4 Okay, good afternoon. Let's call the case,
5 the matter.

6 THE COURTROOM DEPUTY: 12-2039. United
7 States of America versus the Commonwealth of Puerto
8 Rico, and the Puerto Rico Police Department. Case
9 called for status conference.

10 Appearing on behalf of government, Attorney
11 Luis Saucedo.

12 Appearing on behalf of the Commonwealth of
13 Puerto Rico and the Puerto Rico Police Department,
14 Carlos Del-Valle-Cruz and Attorney Gilberto Marxuach;
15 amicus curiae, Attorney Gregorio Igartúa.

16 And on behalf of amicus curiae, ACLU, Josue
17 González.

18 THE COURT: Okay. Good afternoon, Counsel,
19 everybody present, Amicus.

20 What we are going to do is the status
21 conference is a status/settlement conference. And
22 because the case is in negotiations obviously that is
23 going to be done in chambers. So what we will have
24 first for the next half hour or so are the -- I'm
25 going to allow amicus curiae ACLU and Gregorio

1 Igartúa De-La Rosa to argue briefly under amicus
2 briefs, which have been presented.

3 Now, the first matter I want to note is,
4 first of all, I do want to thank greatly both of ACLU
5 and Mr. Igartúa -- or Attorney Igartúa-De-La-Rosa for
6 filing these amicus briefs. And as a matter of fact,
7 they were filed in a very timely manner in compliance
8 with the Court's requirements. Some other attempts
9 at amicus briefings were rejected by the Court; they
10 obviously did not comply. And obviously from what I
11 saw was going to be filed, they were not really
12 amicus briefs. So, I do want to thank both amicus.

13 The other thing that's very important and I
14 want to clarify, I'm allowing you to appear as amicus
15 and make these arguments. At this time, before I
16 accept or reject -- the probability is that I will be
17 accepting the proposed consent decree, subject to any
18 modifications that we may have, because what we have
19 is a draft for a proposed consent decree. But you're
20 allowed to argue as amicus or amici, for purposes of
21 the Court accepting or rejecting the consent decree.

22 Once that is accepted, judgment will be
23 entered, the Court retains jurisdiction; but the only
24 parties would be the United States Government and the
25 Government of Puerto Rico, because that consent

1 decree obviously does not create rights as to third
2 parties or any other individuals. And that is why I
3 understood it's important to allow you at this point;
4 but once the judgment is entered, obviously the only
5 appearing counsel in the case, unless something
6 extraordinary happens at some future point, would be
7 the United States Department of Justice and the
8 Commonwealth of Puerto Rico and its police
9 department.

10 So, having said that, the order we're going
11 to take is, the ACLU has 20 minutes to argue any
12 matters that it may deem important. I will be asking
13 some questions, interrupting a bit, but you have
14 20 minutes -- use it as you can. I know the ACLU has
15 filed two amicus briefs: One is filed on behalf of
16 ACLU itself and the other is filed on behalf of
17 several groups of women's interests groups as
18 *Movimiento Amplio De Mujeres de Puerto Rico*,
19 *Coordinadora Paz para la Mujer*, Latin American and
20 Caribbean Committee for the Defense of Women's
21 Rights -- that acronym is CLADEM -- *Pasos De Las*
22 *Mujeres Feministas en Marcha*, *OPMT*, and *Taller Salud*
23 are some of these feminist or women's groups.

24 So, I would ask counsel for the ACLU please
25 go ahead.

1 MR. GONZÁLEZ-ORTÍZ: Yes, Your Honor.

2 THE COURT: And obviously the ACLU, it need
3 not make any introduction. We all know about the
4 ACLU, the importance of the ACLU in national
5 litigation and federal issues, judicial issues,
6 throughout the nation. I think it's
7 self-introductory what the ACLU does.

8 So thank you, Counsel.

9 MR. GONZÁLEZ-ORTÍZ: Thank you, Your Honor.
10 Just to mention for the record, Attorney Josue
11 González-Ortíz representing the ACLU, who appears as
12 amicus in this case. Just to mention that also for
13 the ACLU present is the director, Attorney William
14 Ramírez-Hernández, and also another attorney that has
15 been providing assistance for the ACLU, Eva Prado.

16 Well, Your Honor, thank you for allowing --
17 first of all, thank you for allowing the ACLU to
18 appear and to -- and for this opportunity to express
19 its position and its concern regarding this
20 important -- this important matter.

21 As thoroughly discussed in our briefs and
22 the investigative report that we published last
23 summer the ACLU Puerto Rico has been working on the
24 issue of police brutality and police misconduct for
25 many years and from many fronts. Over the years the

1 ACLU, among other things, has conducted profound
2 investigations on individual police abuses.
3 Documented dozens of incidents of police unlawful
4 practices, conducted litigation representing
5 individual, organized educational and outreach
6 activities with the community, and presented the
7 issue -- and even presented the issue before
8 international forums as an issue of human rights
9 violations.

10 As a result of those efforts, we came to the
11 conclusion that the nature of the problem goes way
12 beyond individual and insulated cases and incidents
13 of police misconduct, and it has been tried to be
14 halted by all governmental administrations in the
15 past years.

16 The same measure of police misconduct could
17 be traced in all municipalities and radios along and
18 across the island. Just from Humacao, Carolina, San
19 Juan, Aguadilla, Ponce -- you name it. The nature of
20 the problem within the police department certainly is
21 systemic. It has been developing for years, and it
22 has been ignored and neglected by all governmental
23 administrations, Your Honor.

24 Hence, we agree with the Department of
25 Justice of the United States that within the police

1 department prevails a practice of misconduct in
2 violation of the constitution, specifically the First
3 Amendment, the Fourth Amendment, and the Fourteenth
4 Amendment; and also this conduct, certainly
5 constitutes violation of human rights. In that sense
6 we believe that this case represents an historical
7 opportunity to effectively address the culture of
8 violence that prevails within the police department.

9 We believe that the consent decree, as it is
10 proposed, includes the essential commissions
11 ordinarily needed to reform the police department and
12 to carry out the comprehensive reform and hence fully
13 supports -- hence ACLU fully supports the entry of
14 the consent decree, subjected to the following
15 observations.

16 THE COURT: And let me note something before
17 I listen to your observations. This consent decree,
18 and I've read it very carefully, but the way it's
19 presented, it's presented in a very broad language
20 and it encompasses a lot. There may not be some
21 details, particular details, but that I understand is
22 done on purpose because what -- a problem we may have
23 today may be resolved this way today but three years
24 from now there's another way to resolve it, other
25 issues can come up.

1 And that is something that obviously your
2 input is very valuable in that respect, but the fact
3 that the consent decree may not have more
4 specifically tailored language to a specific problem
5 does not mean that it cannot address those problems.
6 So, that's why again I understood it's important to
7 hear from you -- and, again, your input may be
8 subject to some modifications.

9 The same way, I'm going to keep jurisdiction
10 whenever and if ever I approve, which seems to be
11 what is going to happen, the consent decree; but that
12 doesn't mean -- at any point should matters change or
13 circumstances change that it could be modified,
14 because that's the beauty about keeping jurisdiction
15 about that.

16 So, let me hear your recommendations then.
17 And I understand what you're arguing right now is not
18 on behalf of the women's groups, it's the ACLU as
19 itself.

20 MR. GONZÁLEZ-ORTÍZ: Well, at large and also
21 I would like to point out some of the points that
22 were brought out by the brief that was filed by the
23 women's rights organizations.

24 But our observations basically are three:
25 The first one is that the proposed decree lacks

1 provision for independent civilian oversight of the
2 PRPD such as the one that we have been proposing for
3 years, such as the civilian review board. Such
4 civilian oversight is essential to hold the PRPD
5 accountable for abuses and provides an independent
6 forum for community involvement and review of PRPD
7 policies and practices.

8 So what we are talking about here is about
9 accountability from an independent body represented
10 by individuals in society, independent from the
11 government and independent from the police
12 department.

13 We recommend that the final consent decree
14 include the provisions creating an independent
15 civilian oversight mechanism.

16 Number two --

17 THE COURT: Okay, let me first just address
18 number one and we'll go one by one.

19 MR. GONZÁLEZ-ORTÍZ: Okay.

20 THE COURT: The consent decree, and as I
21 read it and everybody can read it, it creates the
22 figure of the technical compliance advisory, the TCA.
23 The role of the TCA is detailed in the consent decree
24 but there is no impediment, as I read the consent
25 decree, that that TCA will meet with community

1 groups, with the ACLU, with whatever representative
2 the ACLU may have.

3 Also, any time anything is adopted or
4 there's orders in this case eventually those do
5 become public, and there's -- you know, obviously
6 this case, this is not a case that's going to be
7 sealed and nobody is going to find out what's going
8 on; it's a very public case. So ACLU is going to be
9 knowing what is going on.

10 And there's no impediment, the way I read
11 it, that members from the ACLU or any other community
12 group who meets periodically with the TCA, technical
13 compliance advisor, and any time -- and again, I
14 understand will be valued, will be considered along
15 with the input of anybody else because the advisor
16 and whatever group of staff he has, they need to go
17 out in the community also -- that's not only meeting
18 with the police and the government, they're going to
19 be out there getting input from the community.

20 So, I understand that in respect -- and,
21 again, I understand what you suggest. I understand
22 again that the consent decree does not preclude that
23 in any way, and it's a matter of, you know, obviously
24 getting this implemented.

25 So point number two.

1 MR. GONZÁLEZ-ORTÍZ: Well, Your Honor, as to
2 that point, the only thing that I would -- as I
3 understand it, the civilian review board, as we are
4 proposing it, is mostly a mechanism of accountability
5 to take a civilians' complaints from the community as
6 a way to take complaints from the community which is
7 one of the problems that we have been able to
8 identify throughout all these years of
9 investigations. And it is -- what we try to
10 establish is as a permanent institution that is going
11 to be -- that is going to be directed to deal with
12 the problem of civilians complaints with regard to
13 the police misconduct, et cetera.

14 THE COURT: And what you're suggesting is --
15 because obviously what I take it is that not that you
16 necessarily -- obviously you're taking about
17 long-term after the TCA is gone, after the consent
18 decree is complied with, after the police reform
19 takes place, you want to have a longstanding figure
20 out there or a body or something to that effect.

21 MR. GONZÁLEZ-ORTÍZ: Exactly.

22 THE COURT: Let me say this: And, again,
23 I'm not saying one thing or another. Obviously the
24 parties are the ones what are ultimately going to
25 decide and propose to the Court. But let me ask you,

1 isn't that something also at some point during or,
2 you know, even after the reform? And I don't it
3 would be inconsistent. The legislative assembly
4 could create such a group by law or, you know, the
5 governor could by executive order also create some
6 group. Those would also be alternatives; right?

7 MR. GONZÁLEZ-ORTÍZ: Well, as a matter of
8 fact, there are a few proposals to that effect right
9 now, but I think that it could be already discussed
10 in the process of negotiation during this consent
11 decree. And that is something that for our point of
12 view deserves discussions from the parties in the
13 process of --

14 THE COURT: Obviously I asked them to take
15 note. I'm sure they've read your brief.

16 Please continue.

17 MR. GONZÁLEZ-ORTÍZ: Yes. As to the second
18 point, although the proposed agreement addresses
19 crowd control, it fails to include a provision that
20 addressing the training of police officers on the new
21 crowd control policies -- interaction with
22 protesters, the handling of public demonstration, and
23 constitutional rights to speech and assembly.

24 In addition, the proposed consent decree
25 does not require the PRPD to devise policies that

1 address when it is appropriate for the commander on
2 scene to approve crowd dispersal techniques or what
3 technique should be allowed under what circumstances.
4 These provisions are necessary in order to prevent
5 the use of excessive force against protestors and to
6 ensure the PRPD officers respect Puerto Ricans' First
7 Amendment rights to freedom of speech and expression
8 in the future.

9 And our third --

10 THE COURT: And before we go into the third,
11 let me ask you, from your reading of the proposed
12 consent decree I understand what you would like us to
13 have is a specific provision there regarding this; am
14 I correct?

15 MR. GONZÁLEZ-ORTÍZ: Yeah.

16 THE COURT: Okay, but there is -- let me
17 also say, there is nothing in the consent decree that
18 precludes -- and I understand when all this training
19 and all this reform goes, this is going to be part --
20 this would be my understanding, that this would
21 obviously go hand in hand because if you read the DOJ
22 report, obviously crowd control and a lot of these
23 issues that have taken place we can all -- we've all
24 read from the press and the news that have happened.

25 And I know the incidents are well-cited,

1 some of these incidents, but I understand that --
2 obviously that is something that I will have the
3 parties discuss that. But obviously the -- at least
4 from my reading of the proposes consent decree, that
5 would be covered by everything.

6 That's obviously -- and, again, that's a
7 point that is very well taken, at least from
8 perspective, but there may be many other points that
9 could also go in. And I think they're all
10 encompassing, and that is why the consent decree
11 language is so broad because if it starts saying
12 train the police officers or X, Y, Z, and it doesn't
13 have A, B, C, as attorneys then is going to say,
14 Well, that wasn't included, that's not part of the
15 consent decree. And I understand that is why the
16 consent decree is so broad, because the more
17 technical and nitty-gritty the parties get, then the
18 less space for, you know, implementing different
19 options. But I take notice of that.

20 And obviously -- and let me say from the
21 Court's perspective, and I've had some these cases
22 not the later ones that we had some pretty bad riots
23 here on the island, but obviously the training
24 obviously I agree with you. It's very essential when
25 to use it or not, and there's times when, you know,

1 it has to be used because sometimes these protestors
2 are here, it gets too wild and they all start
3 claiming First Amendment, First Amendment, but at the
4 same time we've had other incidents where policemen
5 are attacked -- and, again, it's a two-way street,
6 and I recognize it.

7 So go to your third point. Thank you.

8 MR. GONZÁLEZ-ORTÍZ: Well, Your Honor, as to
9 the third point regarding the police response to
10 gender violence, which is an important element of our
11 discussions --

12 THE COURT: And let me note something about
13 that because in your brief I brief a made a note
14 about the gender situation. Normally when you say
15 gender violence -- and I know women's advocates
16 groups are advocating a lot for this. Most of the
17 time, the way we see it, it's the woman who is the
18 victim, but we've had cases where the women is
19 actually the aggressor. We've had women who are
20 police officers who have shot their significant
21 others. And so I've seen it both ways.

22 So, obviously it is mostly a gender issue,
23 but the issue, I think, goes to some extent beyond
24 gender sometimes.

25 MR. GONZÁLEZ-ORTÍZ: Yes. We recognize

1 that. But from our point of view, what has been
2 prevailing as a social problem is the women as
3 victims.

4 THE COURT: No, the women are victims, yes.

5 MR. GONZÁLEZ-ORTÍZ: And I believe that --
6 and part, you know, what you just said, it is --

7 THE COURT: But you cannot leave the men
8 victims behind because there are a few. And
9 obviously -- and I've also had case which -- I believe
10 it was a case I've settled, but it wasn't a domestic
11 violence dispute but it was a policewoman -- and
12 actually this is probably five, six years ago but the
13 policewoman did not receive Law 9 benefits from the
14 Puerto Rico Justice Department. The Justice
15 Department had actually determined that she was
16 actually the aggressor, she had just gone to get a
17 gun and shot I don't know who, there was a dispute in
18 her neighborhood.

19 So, it has happened both ways. Obviously a
20 big percentage of police force are men, so obviously
21 you're going to see that. But obviously I take all
22 your recommendations, and it's a two-way street.
23 And, again, it could be a same-sex couple that is --
24 you know, we've had victims like that as well -- and,
25 again, sometimes I have the perspective which you

1 don't and sometimes --

2 MR. GONZÁLEZ-ORTÍZ: Well, Your Honor, just
3 to let you know that our approach in the amicus brief
4 filed by the bit women's advocate organizations, it
5 is not only about the police officers involved in
6 incidents of domestic violence --

7 THE COURT: I'm aware of that. And that's
8 also -- I understand that that's an issue.

9 MR. GONZÁLEZ-ORTÍZ: I have here -- sorry,
10 Sir.

11 THE COURT: No, no. That's okay.

12 MR. GONZÁLEZ-ORTÍZ: Yes. I have here
13 Attorney Eva Prado who would like to add about that.

14 THE COURT: Whenever you're done, I'll
15 listen to Ms. Prado. And if you extend your
16 20 minutes, I will listen to Ms. Prado.

17 MR. GONZÁLEZ-ORTÍZ: Well, in any case, Your
18 Honor, with regard to our position about how the
19 police officers or how the police department responds
20 to gender issues -- and as explained in detail in our
21 brief filed by the ACLU, the consent decree certainly
22 contains critical provisions that reform policy of
23 domestic and sexual violence. The ACLU and the
24 amicus support of these provisions, and our brief
25 offers guidance on how to implement these reforms

1 effectively.

2 Our brief offers detailed guidance on
3 implementation reform of PRPD's investigation and
4 policy on sexual and domestic violence. Including
5 the classification of crimes and investigation of
6 reports of sexual assault and domestic violence
7 cases. PRPD collaboration with community
8 stakeholders, revision of policies and implementation
9 of those policies through effective training and
10 monitoring, the promotion of a victim's center
11 approach to policy and domestic and sexual violence.

12 Our brief also offers guidance on the
13 provision of ongoing training on gender violence
14 brief policy. The creation and implementation of
15 oversight mechanism, the use of interagency
16 coordinated response to domestic and sexual assault
17 cases and data collection and public reporting.

18 What we are talking about here, Your Honor,
19 is about due diligence in the intake of those cases
20 of domestic violence or sexual assault, in the
21 investigation of those incidents of domestic violence
22 in which usually women are the victims and in the
23 prosecution of those cases.

24 In fact, Your Honor, right now at this very
25 moment the Inter-American Court of Human Rights has

1 already found that the government of the United
2 States has failed to -- has violated human rights
3 because of its failure to prosecute protection
4 orders -- something that happens here in Puerto Rico
5 every day about -- according to the information that
6 we have had access to.

7 So, I believe that this is an important
8 matter that it is needed to be considered during the
9 discussions of the final consent decree. And
10 obviously it's something that it should be included
11 in any -- in any plan for implementation of this
12 consent decree.

13 So, that's our position with regard to --

14 THE COURT: Yes. Before I hear from
15 co-counsel, let me just mention this as to this
16 problem. And again, I'm very glad you raised and I'm
17 very glad you raise it this stage before the actual
18 consent decree is approved. And again, the consent
19 decree will have very broad language but obviously
20 this is a point where, if the language is not in the
21 agreement in the implementation or when the technical
22 compliance advisor is appointed, these are issues
23 that will certainly have to be looked upon by
24 everything.

25 Let me just make another comment and then

1 I'll hear from co-counsel. Obviously what you're
2 addressing is a very serious problem. And obviously
3 it involves the Puerto Rico Police Department to one
4 extent. But that's not the only participant in
5 resolving all of this. And I see from your brief,
6 and obviously I know that from my experience, that's
7 not the only component in solving this problem. We
8 have the PRPD to -- and obviously I have to address
9 this to the PRPD.

10 The Puerto Rico Justice Department also
11 plays a very important role. When I worked there
12 from '97 to 2000, that's when they started having the
13 specialized units in domestic violence. And that was
14 a big change at the time. It was very, very
15 important that there be prosecutors who were very
16 sensitive to victims. They were trained in the --
17 you know, this is -- in the past, the mentality was a
18 women would be abused and the prosecutor, or
19 sometimes the judge, would say, Well, you deserve it
20 or go home, you know, for whatever reasons. And that
21 was wrong.

22 And the policy, you know, at least for the
23 last almost 15 years, the DOJ, the Puerto Rico DOJ,
24 has had -- these cases get prosecuted. Once there's
25 probably cause, they get charged.

1 And I remember when I was solicitor general
2 of Puerto Rico we had two important cases involving
3 women's domestic violence issues. And one was that
4 lack of interest would not cause a case to be
5 dismissed. And that was a very important case. I
6 believe it was *The People of Puerto Rico versus*
7 *Osvaldo Ríos*. And that was a landmark case. So, the
8 DOJ I know has always been very big into resolving
9 this problem. The prosecutors are well-trained; of
10 course, they can always be trained -- you know,
11 there's never a limit to how well you can get
12 trained. But it's not only the PRPD and the DOJ,
13 it's also the Court system in Puerto Rico.

14 And those are -- this is part of a bigger
15 component, when we look at the three. Obviously I do
16 realize your point, and the police always have to do
17 their part of their role. The DOJ has to do its part
18 of the role, and the Courts also have to do the part
19 of their role. And obviously this case is not a
20 reform for the Puerto Rico court system or the
21 domestic violence courts, how they handle it in
22 Puerto Rico, nor is it of the DOJ.

23 I think the DOJ is very advanced, you know,
24 compared to some other jurisdictions; it had its own
25 internal reform. But I want to note that, because

1 obviously you may have the best trained policeman out
2 there, but without the good prosecutors and without
3 the judges who are sensitive to these issues, and
4 many, many are -- and I think, you know, lack of
5 interest or go-home-to-your-husband mentality, that
6 has changed over the last 15 years. And it's been a
7 matter of educating all the parties. But obviously
8 at least for the PRPD your points are well-taken.

9 So I'll hear then from co-counsel.

10 MS. PRADO: Thank you, Your Honor. For the
11 record Eva Prado from the ACLU.

12 Yeah, Your Honor, I agree with you that we
13 have made some advances in fighting with domestic
14 violence situations here in Puerto Rico. We have a
15 special unit. We have not in the PRPD but also in
16 the Department of Justice. But what's the problem
17 that we have? Is that sometimes we have the special
18 units that most of them are well-prepared. The first
19 instance of response of the police department is not
20 the special units; sometimes it's the person that is
21 working on the 9-1-1 line, it's the person -- it's
22 the first police that is --

23 THE COURT: Sorry to interrupt. You're
24 talking about the people that control what -- because
25 eventually without these people -- you know, if the

1 Puerto Rico Justice Department doesn't hear from it,
2 it's over, and they never intervene. You're talking
3 about, again, the 9-1-1 --

4 MS. PRADO: Yeah, the first stance.

5 THE COURT: The police person who takes the
6 complaint or the policeman out on the street who's
7 driving around and sees a fight between husband and
8 wife, sees the guy with the machete and doesn't
9 report. That's the one you're talking about; right?

10 MS. PRADO: Yes. That's one of the
11 classification of crimes. What we have is that
12 sometimes the police department do not responds
13 adequately because they do not report an incident as
14 domestic violence crime. And if you do not classify
15 an incident as a domestic violence crime, you will
16 not start all the process. Even you will not call to
17 the special unit and you will have some victim
18 without neither response.

19 For that is that we think, and I agree with
20 you, that the domestic violence problem is not just
21 about gender, we have men that are victims of
22 domestic violence; but the problem, as you already
23 said, is that we have a big problem with domestic
24 violence and sexual violence against woman.

25 But also what we propose in the amicus is

1 that ongoing training on gender bias free policy, it
2 do not only impact the response for women -- for
3 violence against women; that also will be -- have a
4 good impact in every case of domestic violence
5 response. That has been proved.

6 This is not only regarding violence against
7 women, even though it's a really big problem; it's
8 about how the police department responds to every
9 case of domestic violence. How the police department
10 responds has to be reevaluated. They have to be
11 well-trained, they need to collaborate in this
12 process with community organization. They have the
13 specialty, they understand what the victim is going
14 through.

15 For that, we really for -- our
16 recommendation is very important that even if the
17 police department reviews the protocols, do not do
18 that alone. They need to be involved -- they need to
19 include the women's rights organization and the
20 centers that are giving to the victims -- the service
21 to victims. They need to collaborate with them,
22 because they are those that knows what is the needs
23 for the victims and what are the failings of the
24 police department.

25 And on the end, one of the big situations

1 that women's rights organization brought to us is
2 that -- the oversight process. It's very important
3 that we have a specific system to monitoring the
4 domestic violence and sexual violence cases. We have
5 a really big problem that we don't have any
6 oversight, any monitoring process oversight
7 mechanism, to ensure that they are doing this case in
8 the better way with taking into account the bad
9 practices not in Puerto Rico but in United States but
10 in the world.

11 So just as my fellow said, United States
12 have to comply with our international human rights
13 standards, and it's that we need to reenforce, we
14 need to improve the way that we respond to domestic
15 violence and sexual violence cases. Due diligence is
16 the general point, but it's the best way that we have
17 to respond. With due diligence, with sensitive, and
18 with the needed training and procedures to adequately
19 take these cases to the court.

20 THE COURT: Okay. Thank you very much.

21 Anything else, Counsel?

22 MR. GONZÁLEZ-ORTÍZ: Yes. Just a few final
23 notes. As it is reported and discussed in both of
24 our amicus briefs, in view of the systemic nature of
25 the part and practice that unlawful police conduct

1 within the police force, and since this problem
2 encompasses all level of administration within the
3 PRPD, we believe that this Honorable Court should
4 have direct and constant supervision during the
5 implementation process of the proposed consent
6 decree.

7 First, as I already stated, before the
8 filing of the U.S. DOJ complaint, several police
9 chiefs in the past have refused to adopt effective
10 measures to deal with the problem, even though they
11 were well aware of the situation that has been
12 developing over many years.

13 One of our past chief of police, talking
14 about the domestic violence problem in the police
15 department, he publicly stated that domestic
16 violence -- this is just an example -- that domestic
17 violence is not a police problem. You know, we need
18 a profound change of mind and a true commitment from
19 the government officials that these problems exist.
20 And that's why we deem necessary the constant
21 presence of the Court over this matter.

22 Second --

23 THE COURT: And let me -- before you go into
24 the second, let me say, the Court's intention, if it
25 approves, or when it approves I think is the better

1 question, the consent decree obviously the Court is
2 retaining jurisdiction. And I am not going to
3 micromanage day-to-day affairs of the police. I
4 don't see this case as, you know, it's -- but on a
5 specific -- every specific matter the police has to
6 do on a day-to-day basis. But on the broader
7 picture, my intention is quarterly or every couple of
8 months to meet with counsel, to see -- as well as the
9 TCA, to see what issues are arising.

10 Obviously if I have some input or at least
11 from my perspective, I've been here in this court
12 12 years and I've had prior experience with the
13 Puerto Rico state government, but based on that
14 experience, if I see anything that can be improved or
15 should continue, I'm going to be providing input and
16 I'm going to be providing reports. The Court is not
17 going to simply be hands-off for ten years and then
18 say, Nothing happened, consent decree over.

19 This is one of these cases where the Court's
20 vision is that I'm here -- this is more of a team
21 approach. On one side I hold the Commonwealth' hand,
22 on the other side I hold the United States' hand; and
23 we all try to work this together. Obviously I'm not
24 a participant, but I try to bring the parties
25 together. That's my philosophy for this type of

1 case.

2 And I also have to apologize because we have
3 another case, *United States versus Commonwealth of*
4 *Puerto Rico*, which deals with the mentally impaired
5 population of Puerto Rico. That's the approach we've
6 been taking. It has not been the typical litigation
7 approach, but it's a more policy, result-driven
8 approach.

9 And again, the Court's not going to be
10 hands-off. And of course, if there's any issues that
11 arise obviously the Court, and depending on those
12 issues, may involve itself a bit more or involve
13 itself a little bit less, depending on the issues.
14 But that's the Court's position as to that.

15 So, you may rest assured simply that I'm not
16 simply going to sign off and forget about it.

17 MR. GONZÁLEZ-ORTÍZ: That's good to know,
18 Your Honor.

19 Another reason why we believe that the
20 constant presence of the Court is necessary is
21 because this reform, the proposes reform, necessarily
22 involves profound changes at many levels of
23 administration from enrollment process, training,
24 accountability, supervision, access to information,
25 transparency, public involvement, et cetera.

1 Your Honor, we certainly recognize that the
2 adoption of the consent decree represents a
3 challenge. However, it is -- at this moment it is
4 the proper instrument to attain that the PRPD
5 operates under the rule of law under the constitution
6 and under human rights standards.

7 Also, as long as individual police officers
8 be given the proper tools for dealing with the
9 public, it is less likely that the police brutality
10 litigation be filed, relieving the State of its
11 usually costs.

12 And, well, Your Honor, basically that's the
13 points that we would like to add, apart from what has
14 been already discussed in both our briefs.

15 THE COURT: No, and they're very
16 comprehensive. They're long ones, especially the one
17 at Docket 28, but obviously they're very easy to
18 read, they're comprehensive, they have statistics.
19 And they're very, very helpful. And I really thank
20 the ACLU. I think the input is going to be well
21 taken by both parties and their counsel.

22 I told the parties when I met with them --
23 obviously what we discussed in camera is
24 negotiation-wise, that's not public, but I did tell
25 them, and it's in my order that I issue at some

1 point -- or my orders, that I have no doubt that if
2 this reform goes through -- and a similar reform was
3 done in the State of New Jersey. Obviously the
4 difference between New Jersey and Puerto Rico is New
5 Jersey has its central police but then it has
6 counties. You know, here we have a central police
7 and the central government has to handle it all.

8 But I told the parties there is -- and I've
9 been public in that in my order also -- I have no
10 doubt that if we're able, with the Court's
11 supervision, the parties are able to complete this
12 reform, obviously with the input that they have
13 received from you and other sources of input, there's
14 no doubt -- there's no reason why the Commonwealth
15 police force couldn't be tops in the nation.

16 We're not looking -- this reform is not
17 looking to simply put the Police of Puerto Rico up
18 there with, you know, the 50 states and territories
19 at a minimum; it's trying to put it -- and, again,
20 this has not been done at a statewide level except
21 the State of New Jersey before. But this is
22 something that would probably place the Puerto Rico
23 Police at tops in the nation and a model to be
24 followed by many other jurisdictions, whether by
25 consent decree or not by consent decree.

1 So, I also -- something that, I think, is
2 very important and I have not done in this case, but
3 this is a case which is very unique because I know
4 the Commonwealth government started meeting with U.S.
5 DOJ officials before the report came out; so we're
6 talking this is really about a four-, five-year
7 period that this -- even though the case was filed in
8 2012, this has been going on.

9 And I do have to commend the former governor
10 of Puerto Rico, Governor Fortuño, because I know the
11 proposed consent decree was reached under his
12 administration. But I also, at the other hand
13 equally have to commend Governor García-Padilla
14 because this is not one of these cases, you know,
15 where you hear, Oh, it's the new government
16 administration comes in and let's figure everything
17 or find a new way to do so. Governor García-Padilla
18 has focused on everything that was accomplished
19 during the past administration; and from there he has
20 taken off. This has saved time and effort from
21 everybody.

22 And again, both governors, I think, this is
23 something that they're not doing this reform because
24 of politics; it is something that has to be done and
25 their effort and their support is essential, as well

1 as any other governor. Because this is -- it could
2 be 10, 12, 15 years; we're going to see probably more
3 than two governors involved in this reform. So
4 obviously I would hope that any future governor,
5 whatever it may be, that also participates first
6 executive is going to give the same dedication and
7 effort in moving this case. Thank you very much.

8 MR. GONZÁLEZ-ORTÍZ: Thank you, Your Honor.

9 THE COURT: Okay. Then the next amicus that
10 we have -- and before I recognize him, let me note
11 that we have Professor José Garrilla-Picó from the
12 University of Puerto Rico. He teaches undergrads,
13 political sciences, and has been doing so for over
14 30 years, maybe a little bit more; and he was also a
15 state senator for a four-year term here. He's here
16 with several of his students; I believe there's maybe
17 20 of his students or more.

18 I want to commend Professor Garrilla because
19 it's important that -- obviously this case raises
20 public matters, it's a matter of public interest.
21 And I know you teach political science, but it's very
22 important that students come to court, listen to
23 these cases, find out what's going on not only
24 through the press but also participating going here,
25 going to the capital building, seeing what

1 legislature is passed, seeing trials. So I want to
2 thank the professor and I welcome his students.

3 Those of you who are interested in what goes
4 on here, talk to the ACLU attorneys after the
5 hearing, talk to Mr. Igartúa, talk to the other
6 attorneys. And at some point I believe the ACLU may
7 have internships at one point. Some of you are from
8 Aguadilla like Mr. Igartúa; he might need an intern
9 at some point also. And, you know, the DOJ also, if
10 any of you go to law school, does have internship
11 programs. So it's very important, and I thank all of
12 you for being here.

13 Now, Mr. Igartúa is -- I want to note that I
14 have allowed him to participate as amicus. His
15 experience of many years dating back to the early
16 nineties. Mr. Igartúa has championed civil rights.
17 Particularly he has always brought to the Court --
18 and let me say, I do have to commend him from that
19 respect because he always uses the Court. Other
20 people prefer other ways to bring issues of social
21 change, but he has always chosen the courts and the
22 law.

23 Mr. Igartúa has on four occasions, in his
24 own behalf and on behalf of Puerto Rico, sued the
25 United States seeking presidential vote. The last

1 time was seeking congressional representation. In
2 two of those occasions the Government of Puerto Rico
3 joined as a party to those proceedings; so that is --
4 it also shows the seriousness of his arguments. This
5 is not just some pro se attorney for Plaintiff who is
6 raising these arguments for the sake of it.

7 You know, in one of those, in 2000, I worked
8 as the solicitor general of Puerto Rico. And I,
9 along with Mr. Igartúa, argued one of those cases in
10 Boston, which we did not prevail, but I do note also
11 Mr. Igartúa as appeared as amicus in other cases.
12 His brief is very well presented and it's what the
13 Court would expect from an amicus brief, and it's
14 also going to be there for the record.

15 So what I would ask Mr. Igartúa, obviously
16 the issue -- I note part of the issue in your brief
17 has to deal with incorporation/nonincorporation of
18 the U.S. territory of the Commonwealth of Puerto
19 Rico, but I believe that right now is a moot issue,
20 at least in this case, because the Court asked the
21 United States to respond to that position, if it
22 wanted to sustain it or if it wanted to withdraw it.

23 And I mentioned in doing so in my order that
24 the presidential task force report, signed by our
25 nation's president, had put into question the

1 continued validity of the insular case. And that is
2 in one of my orders, that's very clear; it's after my
3 order. The United States withdrew that allegation.

4 And this is one of these cases that I know
5 you're always arguing for equal treatment of the
6 Commonwealth of Puerto Rico and the nearly 4 million
7 U.S. citizens, as I've heard you many times argue
8 that, but this is a case where the DOJ, on behalf of
9 the citizens of Puerto Rico -- and this is called --
10 for the students who are here, this is called the
11 Rodney King Statute.

12 I don't know if -- you're probably too young
13 to remember that, but I believe in the late eighties
14 or early nineties Rodney King was beat up by L.A.
15 police. He was acquitted at the state level, there
16 were all these riots, there was a pattern and
17 practice of police misconduct, not defending civil
18 rights, and that's why this statute, the law that
19 this case was brought under, was enacted.

20 And Mr. Igartúa, I just want to mention that
21 obviously the Rodney King Statute, the statute in
22 question, which is 14.141 -- and correct me if I mix
23 up the numbers -- 14.141 -- Section 14.141, it is
24 treating Puerto Rico exactly as any state. It's the
25 same way it treated New Jersey, it's treated counties

1 of territories, or other particular parts of the
2 nation.

3 So, what I would like you to argue -- and,
4 again, you may want to briefly mention your argument
5 about the incorporation and incorporation, but I
6 think that argument is really moot. I think you have
7 some other arguments about how this case puts Puerto
8 Rico and compares it to other jurisdictions in
9 dealing with these sort of issues. I think the focus
10 of your argument would be appreciated if you'd
11 respond to that. But go ahead, you have ten minutes,
12 and if you need a little bit more time, that's no
13 problem. And I may have some questions.

14 So go ahead, Mr. Igartúa. Thank you.

15 MR. IGARTÚA: May it please the Court.

16 THE COURT: Please proceed.

17 MR. IGARTÚA: Your Honor, thank you for
18 allowing me to participate as amicus curiae in this
19 case and thanks, Your Honor, by your comments.

20 THE COURT: And let me say this just on a
21 funny note. But when Mr. Igartúa and I argued in
22 2000 the First Circuit, for about ten minutes before
23 we were going to argue he said he couldn't do it, he
24 was afraid to argue. And we all said No, you brought
25 us all here, it's your fault, so you are responsible.

1 And after that he's never been afraid to argue a cas.
2 So go ahead.

3 MR. IGARTÚA: Well, for many years, as you
4 said, I have been advocating for the civil rights for
5 human rights of the 3.8 American citizens of Puerto
6 Rico. I support the interests of the U.S. Department
7 of Justice to protect the constitutional rights of
8 the American citizens of Puerto Rico. But I oppose
9 that discriminatory practices of the U.S. Department
10 of Justice to further those interests as in this
11 case.

12 As you said, they filed the original
13 complaint, and they in the pleading said that Puerto
14 Rico was an unincorporated territory; and because of
15 an order of the Court, they amended and eliminated
16 that pleading. Now we have to ask, if they
17 eliminated, is it because they considered them, as it
18 is, and as this Court said, Consejo De Salud versus
19 Ruyán, that Puerto Rico is incorporated and that it
20 is not appropriate to say that Puerto Rico is not
21 incorporated.

22 But the problem is that the pleadings of
23 this case continue without that argument -- continue
24 the assertion, the discriminatory assertions. And
25 pleadings are pleadings on the assumption that Puerto

1 Rico is a nonincorporated territory, which is
2 incorrect and discriminatory and has serious
3 political and economical and social consequences; and
4 that's because -- and that is why this case is so
5 important for the 3.8 American million citizens of
6 Puerto Rico. They have an interest in the solution
7 of this case.

8 And, also, we understand that the U.S.
9 government is confronting the court, this court,
10 which already established that Puerto Rico was an
11 incorporated territory with their stance on the
12 pleadings. Now --

13 THE COURT: Before you continue, let me note
14 that in the *Consejo de salud* case, I ruled that,
15 based on -- particularly on the case of *Boumediene*
16 *versus Bush* and other jurisprudence and matters that
17 have taken place that Puerto Rico should be treated
18 as an incorporated territory of the United States,
19 and that all federal laws and civil rights would
20 apply, et cetera, et cetera.

21 And that was the case that was brought --
22 that argument was made to me by the Government of
23 Puerto Rico in probably July or August of 2008 under
24 Gobernador Acevedo Villá's administration, and it was
25 a challenge to the spending clause, and it was one of

1 these issues.

2 And as I mentioned in some my orders, the
3 problem that we have in Puerto Rico sometimes is that
4 we, the Commonwealth, the citizens of Puerto Rico, we
5 have to comply with federal law but at the same time
6 there's no funding.

7 And that case involved wraparound payments
8 to medical institutions on the island. And the
9 Commonwealth, for example, the analogy in that case
10 was that the states get a matching fund of 92 percent
11 or 88 percent, I think, something like that, and then
12 they have to put 12 percent in state funds; Puerto
13 Rico has to put 88 percent in state funds and only
14 gets 12 percent matching. And that was some, you
15 know, inequality that I had mentioned in that case.

16 Since I decided that case, that issue, the
17 government of the United States I asked them to
18 respond; they never responded particularly to that
19 point. At some point that case was still alive, but
20 under the administration that came under Gobernador
21 Acevedo Villá some additional funding came in and
22 that allegation was -- or that ruling the government
23 did not wish to pursue that ruling any further;
24 that's why the United States did not have to
25 intervene at some point defending the

1 constitutional of that statute at issue versus the
2 incorporation/unincorporation doctrine.

3 And since then I note that I have not had
4 any other case or any other matter to convince me
5 that I should reaffirm my ruling or I should modify
6 to some respect. There is the opinion by Former
7 Justice O'Connor in the -- the name of the case
8 escapes me right now --

9 MR. IGARTÚA: Samuel -- U.S. versus Laboy.

10 THE COURT: -- Laboy from The Third Circuit.
11 There is that opinion which seems to be somewhat
12 consistent to what I have stated, but it doesn't talk
13 about incorporation or not; and then we obviously
14 have the presidential task force report which says
15 the insular cases no longer -- or put into question
16 the applicability into Puerto Rico Law.

17 So, that's how things stand at this point; I
18 have no higher guidance at this time. And, again, I
19 don't think the issue is before me any longer. I
20 think even if -- and let me ask you this question.
21 Even if -- regardless if Puerto Rico were
22 incorporated, I understand, unless they were a state
23 of the union, the government are still --
24 incorporated and unincorporated are still
25 territories. So, even if Puerto Rico were to be

1 considered incorporated, which again I'm not going to
2 decide in this case, but the United would still
3 discriminate as to funding to Puerto Rico.

4 MR. IGARTÚA: Well, the thing is, Your
5 Honor, and that's what I'm going to explain right
6 now. What I said before was to try to put the case
7 within its proper perspective on our position. But
8 we have -- I have been talking about the
9 nonincorporated territory treatment. And what is an
10 unincorporated territory treatment? Why it is
11 important in case? because of this complaint.
12 Because this complaint is typical of the legal and
13 discriminatory contradictions exposed in the insular
14 cases in the United States.

15 Why? Let's take this case, this complaint.
16 Here the U.S. Department of Justice requires the
17 applicability of the U.S. constitution: Amendment 1,
18 4, and 14. Now, on the other hand, they have said,
19 and we understand from the body of the pleadings --

20 THE COURT: But that's not discriminatory
21 because it did the same with New Jersey and it does
22 the same with the Virgin Islands.

23 MR. IGARTÚA: No. Okay. But why? Why?
24 Why? Why? Within what context? Well, they want
25 applicability of the U.S. constitution, they filed

1 the complaint; but then there is no parity in federal
2 aids. And what happens? First, without parity in
3 federal aids, Puerto Rico is assigned less per capita
4 in awards for disbursements. And I refer to the
5 brief -- the tables that we submitted.

6 THE COURT: You have a table of every state
7 and territory. And I will note obviously Guam per
8 capita receives much more than other places even
9 though it's a fraction of federal funds because the
10 population is so small.

11 MR. IGARTÚA: We are the least that receives
12 federal funds for those purposes. So what happens?
13 That then, there is no equal treatment. So, you want
14 the constitutional to apply, Amendment 14, equal
15 protection of the law, but you don't have equal
16 protection of the law in the assigning of funds to
17 the American citizens of Puerto Rico. And that's
18 discriminatory. And that's why it is important this
19 case within that language, within that issue, that
20 argument.

21 Then, the non parity, the non parity of
22 federal funds within the context of Harris. What
23 happens? In the case of *Harris versus Rosario*, the
24 Court said that parity of course would disrupt the
25 Puerto Rico economy. And that's ridiculous to say

1 that. And it is shown in this case, and they
2 accepted it in the complaint, because that's why they
3 are -- that's what they are arguing.

4 THE COURT: And I would humbly say it's
5 different *Harris versus Rosario* or *Califano versus*
6 *Torres*; because it's not an entitlement or it's not
7 like Social Security benefits of Medicare or aid to
8 women with children, whatever, you know, that they
9 would receive federal funds; or like with Medicare,
10 Medicaid. No citizen would be receiving moneys in
11 this case. If there's any parity, it would come from
12 DOJ programs to the Puerto Rico Police; and obviously
13 it would be the Commonwealth of Puerto Rico would
14 receive those funds.

15 MR. IGARTÚA: Yes, Your Honor, but in the
16 *Harris* case the Court said that equal parity in
17 federal funds would disrupt the economy. And what
18 happened? What we're seeing, we don't have parity.
19 And what do we have? Social problems, particularly
20 in the criminal area. And that's why they are
21 accepting -- that's what they are arguing that there
22 are social problems, that there is a custom here of
23 the police. And why? We don't have parity.

24 So, what the *Harris* case said and you should
25 consider for purposes of adjudicating this case, is

1 the issue of the parity; because what's going on is
2 that the non-parity is disrupting the social problems
3 of Puerto Rico.

4 And then, thirdly, and furthermore, without
5 funding parity, Your Honor, the implementation of the
6 remedies sought will further disrupt the economy of
7 Puerto Rico, which is already in recession. Since it
8 would require the reallocation of limited resources
9 unequal to the states for the purposes claimed in
10 this complaint.

11 On the other hand, and not dealing with
12 parity, just to finish my argument, I would
13 respectfully suggest that the fact that Puerto Rico
14 is under the parens patriae of the United States,
15 most of the criminal activity in Puerto Rico is
16 related to interstate activity and international
17 criminal activity. And this came on Tuesday in the
18 *El Nuevo Dia* explaining all of that very clearly; and
19 from here the drug goes to the states. And, I mean,
20 we are being asked to participate in the payment
21 of -- to train the Puerto Rico Police so that it
22 meets constitutional qualifications, but then the
23 constitutional does not apply equally to Puerto Rico
24 because of the federal treatment.

25 Also, for me important, we are never

1 referred in this complaint as American citizens,
2 residents of Puerto Rico; it never addresses us like
3 that. Always "the residents of Puerto Rico," "the
4 affected people." In fact --

5 THE COURT: Well, I'll take judicial notice
6 that the residents of Puerto Rico are American U.S.
7 citizens and that's -- throughout the case we'll take
8 notice of that.

9 MR. IGARTÚA: Please do so. And I would
10 really like the Department of Justice --

11 THE COURT: Even if the language is not
12 there, the Court will take notice; so, that's a
13 non-issue.

14 MR. IGARTÚA: Okay.

15 THE COURT: But let me say that I did
16 mention in my order about the funding, that that
17 obviously is a challenge because this case will cost
18 the Commonwealth a lot of money. I have asked the
19 government and parties to see where federal funds are
20 possible to the extent that that can be done. And
21 obviously we do have a problem in implementing -- or
22 the Court has a problem -- well, not that the Court
23 has a problem, but the Court understands that the
24 Commonwealth may face a problem. We cannot -- this
25 would not be implemented the same way in, let's say,

1 Vermont, for example, which probably has good money,
2 it's a small state, and they could probably do this
3 easily. Here the funds are lacking, there are fiscal
4 problems, and it's different. And, again, what I
5 would probably expect Vermont to do in two weeks
6 perhaps Puerto Rico has to do in six months.

7 So, obviously the Court is aware of that,
8 and that is obviously something I have brought to the
9 parties' attention. And obviously, although this
10 reform has to take place -- because it's not a
11 question of when and how or why, it's a question
12 of -- actually, it's a matter of When do we start? or
13 when does to the Court approve this so we can start?
14 But the Court is very, very aware of that.

15 The other thing, and I did mention it in
16 that same order, obviously the Court is also aware
17 and that's why I have suggested that the government
18 consider its view, revisit its view, to see if
19 federal funding can be added to subsidize this
20 reform; because, as I noted in my order, Puerto Rico
21 is a HIDTA -- a high intensity drug trafficking area.
22 It's classified as HIDTA by the United States
23 Government in the mid nineties.

24 The Congress has recognized, and the DOJ,
25 that Puerto Rico is a transshipment international

1 drug zone. So, drugs come from Puerto Rico to the
2 United States. As a matter of fact, they even go to
3 some parts in Europe, as you well read in the Nuevo
4 Dia article.

5 But the issue is obviously, as I mentioned,
6 that is why this is such an important case because if
7 Puerto Rico has one, if not the best, police forces
8 in the United States, that would ultimately benefit
9 the entire American nation because it's going to
10 help, perhaps not all the drug trafficking, but it's
11 going to stop a lot of that drug trafficking. If we
12 cut it in half what goes to the mainland or we cut it
13 in two-thirds, you know -- and when I say "we," I'm
14 talking about the United States and Puerto Rico
15 because obviously a lot of these cases come through
16 the Court so that's why I use the "we." But I do
17 note they're important issues, they've been brought
18 to the parties' attention.

19 Anything else, Mr. Igartúa?

20 MR. IGARTÚA: Two brief things. First,
21 Pleading 65 to 70, just to make the Court refer to
22 the treatment given to Dominicans that have been
23 nationalized. The stance of the U.S. Department of
24 Justice in this case is complete, but for Dominicans
25 the pleading 65 to 70, which I respect, are different

1 from the status of the U.S. Department of Justice in
2 the case of *Arizona versus U.S.*

3 And lastly, respectfully, I request from
4 Your Honor to consider at least affirming your
5 position in the case of Ponce -- *Playa de Ponce*
6 *versus* --

7 THE COURT: Okay. And that ruling in that
8 case is not appealed, it's there in the books. It
9 hasn't been overruled by me. So, unless somebody, at
10 the appropriate case and at the appropriate time,
11 would, with standing, bring that issue where I can
12 revisit it. Again, that is still, you know, my last
13 expression in the books. There's nothing at this
14 time that would make me change my mind one way or
15 another; but, again, the particular case issue is not
16 before me. And, again, the government has removed
17 that allegation from the complaint, but I note that.
18 And, again, if at some point this or in another case
19 it comes up, I will gladly revisit that issue in my
20 duties.

21 So, thank you very much, Mr. Igartúa.

22 MR. IGARTÚA: Thank you very much, Judge.

23 THE COURT: Now, court is adjourned. I'm
24 going to meet within the next 15 minutes with counsel
25 for the parties in my conference room downstairs.

1 What I'm going to ask is -- I'm going to
2 excuse everybody in else in the courtroom. I know
3 Professor Garrilla, the students are here; so, if
4 they have time, I would like to meet with them ten,
5 15 minutes while the parties get ready downstairs.
6 So, I'll excuse everybody else in the courtroom and
7 then I'll -- Professor, you have some time, right?

8 PROFESSOR GARRILLA-PICÓ: Sure.

9 THE COURT: Okay. So I'll stay here a few
10 minutes with the students. Obviously, I can't
11 discuss the merits of how this case will be resolved,
12 but you can talk about anything else that you want
13 about the settlement.

14 And, as I said, if counsel for any of the
15 parties wish to say anything pertaining to the amicus
16 for the record or to ask any questions -- obviously
17 this is not a cross-examination -- please do so.
18 Mr. Del-Valle on behalf of the Commonwealth.

19 MR. DEL-VALLE-CRUZ: Your Honor, first of
20 all, in the same manner that you recognize
21 contributions of Governor Fortuño and Governor
22 García-Padilla, I would like to publically recognize
23 the contributions of the superintendent of the police
24 Hector Pesquera --

25 THE COURT: Who happens to be back there.

1 And I will obviously recognize his contributions not
2 only as part of the Puerto Rico Police in his latest
3 roles but also for many years with the FBI here.

4 MR. DEL-VALLE-CRUZ: Mr. Pesquera has taken
5 this initiative by the United States Government not
6 only -- not as an adversarial proceeding, but he has
7 embraced it as an opportunity to implement a
8 much-needed reform with respect to the statutory
9 admission and the public service that he's doing in
10 this case.

11 And I think he deserves that recognition
12 together with the secretary of justice who has also
13 embraced this action in the same manner as
14 Mr. Pesquera.

15 THE COURT: I agree with you. And, again,
16 both governors in this case have been working very
17 hard in this case. And I note that after the
18 elections I think it was the first -- before swearing
19 in one of the first actions that now Governor
20 García-Padilla took. I do know he went with the now
21 attorney general and with the team to Washington,
22 D.C. to continue discussing this case. And it was
23 one of his top priorities.

24 And I know the outgoing administration also
25 made its best efforts to make -- particularly in this

1 case a very smooth transition. So, again, both
2 administrations are commended. And, again, by
3 commending both administrations -- you know, it's not
4 easy for a judge to commend one governor or the
5 other, but when I can commend both then -- and they
6 happen to be from different administrations -- I
7 think that's appropriate in this case. It's probably
8 one of the few times I'll be able to do that.

9 MR. DEL-VALLE-CRUZ: Everybody wins.

10 Your Honor, I also cannot leave without
11 recognizing the amicus that have participated in this
12 case: The American civil liberties union, Puerto
13 Rico has been very instrumental particularly to the
14 leadership of Mr. William Ramírez in bringing to the
15 public attention many issues that have to do with
16 civil rights in Puerto Rico; and it's not surprising
17 that he's here in this case as one of the leading
18 participants in the amicus curiae.

19 In the same manner, the *Movimiento Amplio de*
20 *Mujeres*, *La Coordinadora de Paz para las Mujeres*, *El*
21 *Comité de Defensa de Derechos de las Mujeres*, and the
22 other women's groups that have participated to the
23 amicus have been traditional and historic
24 spokespersons who are respected with Puerto Rican
25 society. And the fact that they're speaking on

1 behalf of the persons they represent means a lot to
2 us as the participants -- as the plaintiff and
3 defendant of this case, but also in terms of the
4 recognition of their role in Puerto Rican society and
5 bringing civil rights issues to the court. So, in
6 that way I would also like to make the recognition.

7 This -- I would like to point out that this
8 case it's a very historic accomplishment what is
9 trying to be done between the United States
10 Department of Justice and the Commonwealth of Puerto
11 Rico because we're trying to reform a system that has
12 traditionally been faulted with certain civil rights
13 deficiencies in a manner that takes -- that does not
14 do away with the compelling state interest in crime
15 fighting in Puerto Rico but that takes that
16 compelling state interest and activates it in a
17 manner that is the most protectful [ph] of the civil
18 rights of the persons in Puerto Rico.

19 What the amici are very right insofar as the
20 consent decree does not directly address gender
21 violence or gender bias or violence in Puerto Rico.
22 The agreement, nonetheless, establishes the framework
23 for community and citizen input so that the matters
24 that they're raising can be the subject subsequently
25 of new police policies and procedures that directly

1 address the concerns that they're bringing up today.

2 So, in that manner, the concern -- the
3 agreement that is being approved -- that will be
4 approved by the Court is not -- does not foreclose
5 the concerns that these civil voices have brought
6 before the Court. And I think we should take note of
7 that because it does not mean that these concerns
8 could not be addressed --

9 THE COURT: And let me say, as you mention,
10 I think you hit the nail on the coffin. You said --
11 you used the word "framework," and with this
12 framework these issues can be addressed. This is a
13 floor, it's not a ceiling; and it doesn't bind the
14 United States nor the Commonwealth in addressing any
15 of these issues.

16 And there're going to be public measures,
17 public policy. Regulations will be issued or
18 internal operating procedures by the police of Puerto
19 Rico, regulations made in the legislature. At some
20 point there could be an executive order or
21 regulations, that's going to ensue at some point. At
22 that is something the technical compliance advisor
23 will be working with very carefully.

24 And obviously at some point when the parties
25 recommend that the Court appoint that person

1 obviously you're going to be able to have
2 face-to-face meetings with that person and address
3 many of these concerns probably at a very early on
4 stage.

5 MR. DEL-VALLE-CRUZ: The decree addresses
6 particularly excessive use of force, unreasonable
7 search and seizures, and community expression to
8 demonstrations because those were the main objectives
9 that were behind the investigation and the
10 recommendations issued by the U.S. DOJ; but the
11 report -- the decree in itself is not foreclosed only
12 to those issues. It censors them, but it opens the
13 process so that other issues can be attended.

14 Finally, Your Honor, I wish to emphasize
15 this is not an adversary proceeding. The
16 Commonwealth of Puerto Rico has taken this as a
17 commitment that it has under both the past and
18 present administration to attend to crimefighting but
19 within the context of a healthy Democratic society.
20 This is not a case that is brought against the
21 Government of Puerto Rico and we're fighting it as an
22 adversary. We have joined as participants,
23 co-participants, in an effort to reform the Police
24 Department of Puerto Rico. And, therefore, it should
25 not be seen as one part as against another but as a

1 team of players who are pooling resources to work
2 together.

3 Our recognition must go out to the U.S.
4 Department of Justice because they are helping in
5 terms of the budget of this case. You know we're
6 going through a very tight budgetary proceeding in
7 Puerto Rico; and, nonetheless, the U.S. DOJ is
8 participating and helping funding the many reforms
9 that are needed.

10 I would like to make -- recognize my
11 expression of gratitude to the American Civil
12 Liberties Union because, even though they discharged
13 their duties in signaling what our potential
14 deficiencies -- according to them, and I agree -- in
15 the end they endorse the agreement. They say that
16 the agreement endorses a majority of the reforms that
17 are needed to comply with the requirements of the
18 United States constitution. And I think that when an
19 organization like the American Civil Liberties Union
20 is capable of recognizing that, it means that this
21 represents the best interests of many, if not all,
22 aspects of the Puerto Rican community.

23 Thank you.

24 THE COURT: Thank you. And let me note that
25 when you mentioned the government of Puerto Rico and

1 the United States who are acting in a partnership
2 manner or on equal footing on this matter, obviously
3 the complaint has to be filed; we need a plaintiff
4 and we need a defendant. And obviously -- but this
5 is not the type of adversarial proceeding that in the
6 past was brought.

7 Many years ago what would happen, maybe the
8 DOJ or it could be, for example, the Environmental
9 Protection Agency would file a complaint against
10 Aqueduct Sewer, and Electric Power against agencies
11 of the government and it would be an adversarial
12 proceeding. It would cost the Commonwealth millions,
13 it would cost the United States not as many millions
14 but a lot of manpower; and then judges were resolving
15 motions issues, a lot of infighting.

16 And I've seen this not only in this case,
17 but I know Mr. Valle you're also an attorney in that
18 case for the Commonwealth -- the *U.S. versus*
19 *Commonwealth of Puerto Rico Health Department* when
20 the mentally impaired population here. And in that
21 case also it's this sort of approach. And it saves a
22 lot of money for the parties; the money that can be
23 used litigating the cases and appealing the cases is
24 used internally in Puerto Rico to benefit the
25 Commonwealth.

1 So, obviously it's -- I would say this is a
2 21st century approach that we're getting in
3 litigation between federal and state governments.
4 And it has been this way -- the State of New Jersey
5 is also a consent decree. The United States Virgin
6 Islands obviously it's a much smaller jurisdiction
7 but also a consent decree; and a lot of these
8 jurisdictions have been consent decreed.

9 And, again, I think this is, you know, a
10 very important statute the Congress has enacted. And
11 I think also with what we learn -- and when I say
12 "we," I say the Court, the United States, the
13 Commonwealth; but obviously this would not be the
14 first or last time the statute is invoked by the
15 United States. And obviously with all of us working
16 together and putting our little grain of salt,
17 obviously we're going to set a framework for the
18 United States and other states and jurisdictions to
19 follow in the future. And, again, Puerto Rico can be
20 the model for that at some point.

21 So, having said that, Counsel for the United
22 States, is there anything you wish to add at this
23 time?

24 MR. SAUCEDO: Yes, Your Honor. I will be
25 very brief. I do want to thank the amicus curiae

1 that participated today; we do value and welcome the
2 input and insights that they bring. I want to
3 recognize the long advocacy of the ACLU in this
4 matter and in other police matters across the country
5 and all of the groups that they represent in their
6 briefs.

7 The United States understands that this case
8 is of great interest to all of the individuals who
9 live, work, and visit the island. It's important for
10 us to hear from as many people as possible so that we
11 ensure that the agreement that we reach leads to
12 sustainable reform. And the reform we're looking for
13 is one that is going to guarantee fundamental civil
14 rights, ensure public safety on the island, and
15 restores the confidence in the men and women who work
16 and put their lives on the line to protect the
17 individuals who live here on the island.

18 THE COURT: And the motto of the police
19 department is "Honesty and Integrity," and this is
20 what this case is all about -- putting that back
21 there.

22 MR. SAUCEDO: We're going to continue to
23 work with the government and with all state holders
24 to reach an agreement that achieves those goals. The
25 agreement itself contemplates ongoing engagement with

1 community members advocacy groups, all stakeholders.
2 And, Your Honor, indeed the very success of the
3 agreement is going to depend on that active
4 involvement and engagement by all stakeholders.

5 So, we appreciate the views that have been
6 expressed today. We will continue to work hard to
7 finalize the agreement, present a plan, an
8 implementation plan that is achievable, that is
9 practical, that considers the financial realities
10 everyone is living under but that also ensures and
11 guarantees the civil rights that we all enjoy.

12 So thank you very much.

13 THE COURT: Okay. Thank you. And I know
14 Mr. Del-Valle would love to argue, discuss for the
15 next five hours or sit with Mr. Igartúa and discuss
16 the insular case and all these matters; but obviously
17 from what I've stated, and I've heard Mr. Igartúa,
18 and I think the issues are really -- the financial
19 are a consequence, but that will be a matter for
20 another day. But I know that Mr. Del-Valle looks
21 very forward seeing Mr. Igartúa on another day in
22 another matter as well.

23 So, thank you very much. And you're all
24 excused. And I will remain with the students here so
25 I'll give everybody two or three minutes to exit and

1 I'll stay here with the students.

2 (Settlement/Status Conference concluded at
3 3:45 p.m.)

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1 UNITED STATES DISTRICT COURT)
2 OF) ss.
3 PUERTO RICO)
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7 CERTIFICATE
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9

10 I, EVILYS E. BRATHWAITE, hereby certify that
11 the proceedings and evidence are contained fully and
12 accurately, to the best of my ability, in the notes
13 recorded stenographically by me, at the
14 settlement/Status conference in the above matter; and
15 that the foregoing is a true and accurate transcript
16 of the same.
17

18 /s/ Evilys E. Brathwaite

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